

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF COMMUNITY AFFAIRS**

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**2002-2003 FUNDING ROUND I
NOTICE OF FUNDING AVAILABILITY (NOFA)
MULTIFAMILY HOUSING PROGRAM
January 16, 2003**

(1) Introduction. The California Department of Housing and Community Development (hereinafter "HCD" or "Department") is announcing the availability of approximately \$95 million in funding for the Multifamily Housing Program (MHP). Funding for this NOFA is provided under the Housing and Emergency Shelter Trust Fund Act of 2002 (SB 1227) and by the vote of the people of the State of California who, on November 5, 2002, approved bond funding for programs authorized under the Act. The funds allocated under this NOFA will be allocated to projects that are eligible for funding under the following two MHP program components authorized under the act:

- i. MHP General funds of approximately \$70 million. These funds are available as permanent financing for affordable multifamily rental and transitional housing developments.
- ii. MHP Supportive Housing funds of approximately \$25 million. These funds are available as permanent financing for affordable multifamily supportive housing rental units for permanent housing only.

Applications are due in HCD's office by **5:00 p.m. on March 18, 2003**. HCD expects to issue **commitments** to successful applicants in **June, 2003**, prior to the projected application due date for the 2003 third funding round of the California Debt Limit Allocation Committee (CDLAC).

MHP is a streamlined, omnibus financing program for affordable multifamily housing developments. MHP was established by SB 1121, Statutes of 1999 (Alarcón), which created Chapter 6.7, commencing with Section 50675, of the Health and Safety Code. This NOFA will be governed by regulations that were adopted by HCD on January 8, 2002, the statutory requirements of SB 1227 and the Supportive Housing requirements per Attachment 1. Accordingly, applications should be completed pursuant to the requirements as stated in the regulation text, the Supportive Housing requirements and the information contained herein. The MHP regulations are available on the HCD website at: <http://www.hcd.ca.gov/mhp/>.

All section references in this NOFA refer to the regulation text unless otherwise noted.

The Housing and Emergency Shelter Trust Fund Act of 2002 contains an allocation of \$195 million for the purpose of financing Supportive Housing Projects under the MHP. Occupancy of the Supportive Housing units is restricted to eligible households that are both 1) homeless or at risk of homelessness, and 2) include a disabled adult. Homeless or at-risk of homelessness means; moving from an emergency shelter; moving from transitional housing; currently homeless or at risk of homelessness, as further defined in Attachment 1. Qualifying disabilities are those that are expected to be long-continued and of indefinite duration and substantially impede the person's ability to live independently. Such disabilities include: mental illness, HIV or AIDS, substance abuse or other chronic health conditions and developmental disabilities as further defined in Attachment 1. Sponsors of projects serving Special Needs Populations, per Section 7301, whose targeted population does not meet the criteria set forth in Attachment 1 must apply for funding under the MHP General allocation.

The Housing and Emergency Shelter Trust Fund Act of 2002 also contains allocations of \$20 million for Nonresidential Supportive Services Space (Supportive Space) and \$15 million for Student Housing to be

administered under MHP. HCD anticipates including portions of the Supportive Space and Student Housing funds as components of a future MHP NOFA. Supportive Space funding awards will be contingent upon a project being successful in obtaining a MHP award in that future funding round; therefore, projects that receive a MHP award in conjunction with this NOFA will not be eligible to apply for Supportive Space funds announced in a future NOFA.

The application form will be available on the HCD web site on or about January 16, 2003. Application workshops are scheduled as follows:

February 5, 2003	SF Civic Center Complex, Hiram Johnson Building 455 Golden Gate Avenue, San Francisco	9:00 – 12:00
February 11, 2003	HCD Headquarters 1800 Third Street, Room 183, Sacramento	9:00 – 12:00
February 13, 2003	San Diego State Building 1350 Front Street, Room B-109, San Diego	9:00 – 12:00
February 14, 2003	Ronald Reagan State Building 300 South Spring Street, Los Angeles	9:00 – 12:00

(2) Program Summary. MHP provides low-interest loans to developers of affordable housing. MHP General funds available under this NOFA may be used for multifamily rental and transitional housing projects involving new construction, rehabilitation, acquisition and rehabilitation, or conversion of nonresidential structures.

MHP Supportive Housing funds may be used for multifamily rental housing projects involving new construction, rehabilitation, acquisition and rehabilitation, or conversion of nonresidential structures for permanent rental housing only. MHP Supportive Housing funds shall be administered under the MHP and subject to the requirements contained in the MHP Regulations and to the requirements contained in Attachment 1 to this NOFA. To the extent the Supportive Housing requirements per Attachment 1 create any conflict with the MHP Regulations, the Supportive Housing requirements shall prevail.

HCD expects MHP funds to be leveraged with other resources, including local government funds, the federal Continuum of Care programs, 4% low-income housing tax credits, tax-exempt bond financing and private debt financing.

Under this NOFA, projects using 9% tax credits are ineligible.

(3) Program Changes. Significant changes to the program applicable to this funding round include:

- Addition of priority points for projects funded under the MHP General allocation which qualify as adaptive reuse, infill projects and projects located proximate to site amenities. Priority points are not applicable to the MHP Supportive Housing allocation. Therefore, supportive housing projects requesting only MHP Supportive Housing funds will receive full points in this scoring category.
- MHP funds may be used to capitalize a project operating reserve account up to the limit required under Section 7305(a)(2).
- Addition of requirements for Supportive Housing projects (Attachment 1)
- Revised loan limits (Attachment 2)

(4) Eligible Projects. Projects must qualify as rental housing developments, as defined in Section 7301, and meet the requirements of Section 7302. They must have, among other things, five or more dwelling units. MHP General funded units may be operated as permanent or transitional housing.

To qualify as a Supportive Housing project, the project must contain Supportive Housing units equal to the greater of 5 units or 35% of the total project units, restricted to households with incomes at 60% area median income or less. Supportive Housing units must be operated as permanent housing.

Projects are ineligible if construction has commenced as of the application due date (Section 7302), or if the project is already fully funded. They must meet the feasibility standards described in Section 7319.

Projects receiving 9% tax credits are ineligible and the Department will not hold MHP funds pending the outcome of a 9% tax credit application. Therefore, projects which have a 9% tax credit application pending at the time the MHP application is submitted will be disqualified from competing in this funding round. Furthermore, projects which receive a funding commitment and subsequently apply for 9% tax credits will be deemed ineligible and the funding commitment will be immediately rescinded. This policy has been adopted in response to the concern that some projects obtain the MHP commitment and then apply for 9% tax credits in one or more subsequent Tax Credit Allocation Committee (TCAC) rounds, thereby delaying the development of the project. This policy is consistent with insuring that projects receiving MHP funds will be developed within a reasonable period of time and that these projects will provide near-term benefit to the State's economy.

Article XXXIV of the California Constitution requires advance voter approval of certain publicly funded and regulated low-income housing projects. Projects funded by MHP must either have Article XXXIV approval or be exempt from the need for this approval.

(5) Eligible Project Sponsors. Sponsors and borrowing entities may be organized on a for-profit or not-for-profit basis. Any individual, public agency or private entity capable of entering into a contract is eligible to apply, provided that they or their principals have successfully developed at least one affordable housing project. Sponsors of projects serving Special Needs Populations (as defined in Section 7301) and Supportive Housing (as defined in Attachment 1) projects are exempt from the requirement for previous development experience under limited conditions (Section 7303 (d)). Sponsors must have site control (as defined in Section 7303 (c)(2)) in the name of the Sponsor or an entity controlled by the Sponsor.

(6) Eligible Uses of Funds. MHP funds will be provided as permanent financing only, and may be used to take out construction loans used to cover normal project development (capital) costs, as detailed in Section 7304. MHP funds may be used to capitalize a project operating reserve account up to the limit required under Section 7305(a)(2). Program funds may not be used for the cost of supportive services, although the costs of on-site supportive services coordination may be treated as a project operating cost, payable from operating income. MHP funds must be attributable to the costs of "restricted" units (MHP units and units subject to a long-term regulatory agreement with occupancy and rent restrictions similar to those of MHP) or to the costs of childcare, after-school care, and social service facilities integrally linked to the restricted units.

(7) Loan Terms, Limits and Security. Loans will have 55-year terms, and bear simple interest at the rate of 3% per year. For the first 30 years, annual interest payments will be required in the amount of 0.42% of the outstanding principal loan balance. The payment amount for the next 25 years will be set by HCD in year 30, and will be the minimum amount necessary to cover HCD's monitoring costs. Unpaid principal and accrued and deferred interest will be due at the end of the loan term.

Cash flow remaining after payment of all debt service, Operating Expenses, required reserves and allowable Distributions per Section 7313(a) shall be applied toward repayment of the MHP loan (Section 7313 (b)). If the terms of other public agencies' financing also require payments from remaining cash

flow, the Department may agree to share the remaining cash flow with the public agencies in proportion to the respective loan amounts.

The maximum loan per project is \$7,000,000. The maximum loan amount per “restricted” unit is a function of unit size, location, and affordability level. Per-unit limits are shown in Attachment 2.

MHP loan documents will include a promissory note, deed of trust and regulatory agreement. The deed of trust and regulatory agreement may be subordinated to bond debt, and amortizing loans from institutional lenders and the federal government provided no balloon payments are due prior to the end of the MHP loan term. MHP loans may not be subordinated to local public agency loans or restrictions attached to these loans, unless the amount of the local loan is at least twice the amount of the MHP loan (Section 7306(e)).

The MHP loan must be secured by the fee or a leasehold interest in the property acceptable to the Department. The term of a leasehold interest must be at least 65 years from the date the MHP loan closes, excluding any unexercised lease extensions. If the MHP loan is secured by a leasehold, the owner of the fee and the borrower must sign a recordable lease rider approved by the Department, containing substantially the terms in the Department’s MHP Lease Rider. A copy of the MHP Lease Rider is available on the Department’s website at: <http://www.hcd.ca.gov/ca/mhp/>.

(8) Rent and Occupancy Limits. Projects may include units that are “restricted” (subject to long-term rent and income limitations imposed by MHP or other public funding agency), “assisted” (subject to rent and income limitations imposed by MHP), and non-restricted (non-regulated) units. Assisted unit rent and tenant incomes will be restricted in accordance with the rent and income limits proposed by the project sponsor in their MHP application, with rents not exceeding 30% of the applicable income limit. The maximum possible income and rent limits are those set by the Tax Credit Allocation Committee (TCAC), using its calculation methods: 60% of area median income, adjusted by household size, and 30% of 60% of area median income, adjusted by bedroom size. (These maximum limits are available on the TCAC website at <http://www.treasurer.ca.gov/CTCAC/ctcac.htm>).

Occupancy of Supportive Housing units is further restricted to eligible households that are both 1) homeless or at risk of homelessness, and 2) include a disabled adult. Homeless or at-risk of homelessness means; moving from an emergency shelter; moving from transitional housing; currently homeless or at risk of homelessness, as further defined in Attachment 1. Qualifying disabilities are those that are expected to be long-continued and of indefinite duration and substantially impede the person’s ability to live independently. Such disabilities include: mental illness, HIV or AIDS, substance abuse or other chronic health conditions and developmental disabilities, as further defined in Attachment 1.

Assisted unit rent increases will be limited in accordance with the rules governing tax credit units, except that the annual increase rate may not exceed 150% of the Consumer Price Index for All Urban Consumers, West Region, All Items, As published by the Bureau of Labor Statistics, United States Department of Labor (CPI). (During the past five years, the impact of the 150% cap would have been negligible except in Silicon Valley and a few other areas experiencing extraordinarily strong income growth.)

Where the project receives Section 8 or other rental assistance subsidies, “rent” is defined as the tenant’s contribution, rather than the contract rent level. Sponsors of this type of project will be required to continue the rental assistance as long as it is available. Projects with rental subsidies must also be feasible with 50% of area median income rents for units garnering income-targeting points in the event the rental assistance is terminated (Sections 7301(z) and 7312(d)).

(9) Prevailing Wage Requirements. Projects receiving assistance under this NOFA are subject to State prevailing wage law, as set forth in Labor Code section 1720 et seq.

(10) Other Limitations. Net developer fees are limited in accordance with the schedule shown in Section 7313. Distributions to the sponsor out of operating income (including payment of asset / partnership management fees) are also limited in accordance with Section 7313. Deferred developer fees are payable from distributions, with certain limitations.

(11) Special Needs and Supportive Housing Populations. Sponsors of Special Needs Populations projects and Sponsors of Supportive Housing projects must have a specific, feasible plan for delivery and funding of tenant services and will be required to meet minimum threshold criteria for experience and the provision of services. Sponsors must also be very careful to avoid violation of laws barring housing discrimination. HCD will review proposed tenant selection criteria for potential violations of these laws. It may condition funding on the elimination of restrictions that it believes to be impermissible, or reject an application where it determines that compliance with applicable law is not feasible.

As a general rule, tenant selection criteria that have the effect of discriminating against protected classes, such as those based on race, color, religion, sex, age, marital status, familial status, disability, national origin and sexual orientation, are prohibited. On the other hand, housing providers may establish reasonable selection criteria that are rationally related to the services performed and the facilities provided. The determination of whether tenant selection criteria are reasonable and whether the services and facilities are rationally related depends on several factors, including the specific needs of the targeted population, the nature and extent of the services and facilities provided, and sources of funding, other than funds from MHP, for such services and facilities. For example, a sponsor proposing to serve tenants with a particular disability may not be able to justify excluding persons with other disabilities having similar needs. Other than the ban on discrimination against protected classes, there are often few bright line rules to help Sponsors avoid illegal discrimination and each proposal must be analyzed on its own facts.

This is a very complex and in many ways unsettled area of law. Sponsors are encouraged to seek professional advice if there is any doubt that their proposal may run afoul of non-discrimination and fair housing laws. A useful resource is *Between the Lines, A Question and Answer Guide on Legal Issues in Supportive Housing*, recently published by the Corporation for Supportive Housing. This document is available online at www.csh.org.pub.html or by calling the publisher at (510) 251-1910.

As time permits, MHP staff is available to assist potential applicants prior to application submission in determining whether their proposal raises possible discrimination issues.

In evaluating tenant selection criteria for Special Needs Populations and Supportive Housing applications, HCD will first examine whether the criteria resulted from federal or state funding, as an indicator of legislative authorization. It will then review other aspects of the selection criteria, the services and facilities proposed to meet the needs of the targeted group and the proposed sources of other funding. If an applicant disagrees with HCD's determination, it may seek an alternate opinion from the California Department of Fair Employment and Housing (DFEH). HCD will defer to DFEH's opinion. Please be advised that a proposal may have substantial discrimination problems even though it targets a group specifically listed in the definition of Special Needs Populations in Section 7301.

(12) Project Selection Criteria. The criteria that will be used to competitively score projects are described in Section 7320, and summarized below. In assessing whether a project is "at risk", MHP will use the same standards as TCAC (See TCAC's regulations, Section 10325(g)(5), available on their web site as identified above).

<u>Criterion</u>	<u>Max. Points</u>	
Extent Project serves the lowest income levels.	35	Attachment 3 shows the income levels referenced in the regulations.
Extent the Project addresses the most serious local housing needs.	15	
Development and ownership experience of the Sponsor	20	
Percentage of units for families or Special Needs Populations (including Supportive Housing units) and “at-risk” Rental Housing Developments.	35	“At-risk” projects receive full points in this area.
Leverage of other funds.	20	Supportive Housing projects demonstrating collaboration will receive a competitive advantage in the leverage category. See Attachment 1, part III.D for specific requirements.
Project readiness	15	
Adaptive Reuse/Infill/Proximity to amenities	10	Projects requesting only MHP Supportive Housing funds will receive the full 10 points.
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Total	150	

Projects must receive a minimum point score of 125, as determined by HCD staff, in order to be considered for a funding award.

To qualify for the full 10 points in the Adaptive Reuse/Infill/Proximity Category, projects need only qualify under one of the following three conditions:

- 1) Adaptive reuse development. The project must be located within a developed area served with public infrastructure. Eligible projects shall consist of the rehabilitation of vacant or underused commercial or industrial buildings. Structures such as residential hotels that are currently used for housing will not be considered an eligible building to meet the adaptive reuse criteria.
- 2) Infill development. The project must be located in an established, developed area of the community, and on vacant or soon to be vacant property.
- 3) Proximate to site amenities. Projects which qualify for points for proximity to public transit, public schools, or parks and recreation facilities open to the general public, pursuant to TCAC regulations specific to these amenities, will receive points in this category. Additionally, project sites located within one mile of a job center, defined as a concentration of employment opportunities reasonably available to the residents of the project, will receive full points.

Applications not documenting qualifications for points under any of the three categories above will receive zero (0) points in this scoring category.

Supportive Housing units will be funded from the MHP Supportive Housing allocation and non-supportive housing units will be funded from the MHP General allocation. HCD reserves the right, at its sole discretion, to augment the funds announced in this NOFA in order to fully allocate both the MHP General and MHP Supportive Housing funds. In the event a funding allocation of one source (MHP General or MHP Supportive Housing) is exhausted and the next project in line is not eligible to receive the funds from the remaining source, HCD may fund the next project in line requesting funds from the available source. If that eligible project contains both supportive housing and non-supportive housing units (mixed project), HCD may augment either or both funding allocations in order to fully fund that eligible project.

(13) Geographic Set-Asides. MHP's enabling statute requires the program to "ensure a reasonable geographic distribution of funds." To prevent an extreme imbalance in funding, no less than 45% of the total funds awarded under this NOFA shall be awarded to projects in Southern California, no less than 30% shall be awarded to projects in Northern California, and no less than 10% shall be awarded to projects in rural areas.

For the purpose of these set-asides, Southern California includes the counties of San Luis Obispo, Kern, San Bernardino, and all counties to the south. Northern California includes all other counties of the State. "Rural" is defined to be consistent with the definition used by TCAC for the tax credit program, and a list of rural areas can be found in TCAC's Application Supplement, available from the department.

(14) Important Legal Matters. HCD reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, HCD will notify all interested parties. This NOFA provides a partial summary of the MHP statute and regulations and the Supportive Housing Requirements (Attachment 1). In the interest of brevity, it does not cover many aspects of those governing documents, some of which may be of critical importance to individual projects. For this reason, applicants are urged to carefully review the regulations, Attachment 1 and the information contained in this NOFA before submitting applications.

(15) Application Procedures. Applications must be submitted on forms provided or approved by HCD. Application forms must not be modified. A complete original application, plus one copy, must be received by the Department no later than 5:00 P.M. on Tuesday, March 18, 2003. No facsimiles, late applications, incomplete applications, or application revisions will be accepted. Applications must meet all eligibility requirements upon submission. Applications having material internal inconsistencies will not be rated and ranked.

Application forms will be available on or about January 16, 2003. To receive an application package, please visit HCD's web site after this date, or contact Anne Gilroy at (916) 327-2886 or agilroy@hcd.ca.gov. Applications must be delivered to one of the following addresses:

U.S. Mail

Anne Gilroy
Department of Housing and Community
Development
Division of Community Affairs
P.O. Box 952054
Sacramento, CA 94252-2054

Private Carrier

Anne Gilroy
Department of Housing and Community
Development
Division of Community Affairs
1800 Third Street, Room 390
Sacramento, CA 95814

It is the applicant's responsibility to ensure that its application is clear, complete and accurate. After the application deadline, MHP staff may request clarifying information provided that such information does not affect the competitive rating of the application. No information will be solicited or accepted if this information would result in a competitive advantage to an applicant. No applicant may appeal HCD staff's evaluation of another applicant's application.

Questions should be directed to the MHP program staff at (916) 323 - 3178. Thank you for your interest in the Multifamily Housing Program.

Sincerely,

William J. Pavão
Deputy Director

Attachments:

- 1) Supportive Housing Requirements
- 2) Per-unit Loan Limits
- 3) Income Limits and Rents based on State Median Income